

PT 98-1

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**CHICAGO HISTORICAL
SOCIETY,
APPLICANT**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

Docket No: 94-16-1494

**Real Estate Exemption
For 1994 Assessment Year**

P.I.N. 14-33-418-009

Cook County Parcel

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Jeffrey J. Wawzyniak of Seyfarth, Shaw, Fairweather & Geraldson, on behalf of Chicago Historical Society.

SYNOPSIS

This proceeding raises the issue of whether Cook County Parcel Index Number 14-33-418-009 (hereinafter the “subject property”) should be exempt from a percentage of 1994 real estate taxes by virtue of the applicant’s corporate charter.

This controversy arose as follows:

On June 15, 1995, Chicago Historical Society (hereinafter “CHS” or “applicant”) filed a Property Tax Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the “Board”). Dept. Group Ex. No. 1, Doc. B. The Board reviewed

the complaint and on August 3, 1995, recommended that the exemption be denied. Dept. Group Ex. No. 1, Doc. A. On December 29, 1995, the Illinois Department of Revenue (hereinafter the "Department") adopted the Board's recommendation and denied the exemption concluding that the property was not in exempt use. Dept. Ex. No. 2. CHS filed a timely appeal from the Department's denial of exemption. On February 14, 1997, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence, it is recommended that the subject parcel be exempted from 47% of 1994 real estate taxes.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 and Dept. Ex. No. 2 establish the Department's jurisdiction over this matter and its position that the subject parcel was not in exempt use during 1994.
2. CHS was founded in the 1850's for the purpose of collecting, preserving, and interpreting the history of Chicago and the Midwestern United States. Tr. p. 9.
3. CHS's corporate charter of 1857, as amended in 1867, provides in relevant part:

The said Society shall have power to borrow money and mortgage its real estate to secure same, to an amount not exceeding Twenty Thousand Dollars, to be used in completing and paying for the buildings now in process of erection on the real estate of said Society, and the real estate and property of said Society shall be exempt from taxation.

App. Ex. No. 2.

4. CHS acquired title to the subject property via a trustee's deed dated July 14, 1994. App. Ex. No. 4.

5. The subject property is located in Chicago at 1708 N. Crilly Court and is improved with a two-story row house. Tr. pp. 19, 28; Dept. Gr. Ex. No. 1, Doc. A.
6. CHS uses the subject property as temporary housing for visiting professors, educators, etc. Tr. pp. 21-22.
7. The only other parcels of real estate owned by CHS are a museum and an underground storage facility. The Department has exempted both the museum and the storage facility from property taxes. Tr. p. 24.

CONCLUSIONS OF LAW

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony, exhibits and argument, evidence sufficient to warrant a partial exemption from 1994 property taxes. Accordingly, under the reasoning given below, the determination of the Department that the above-captioned parcel does not qualify for exemption should be rejected, in part. In support thereof, I make the following conclusions:

In 1857, our legislature granted CHS a corporate charter. The legislature amended the charter in 1867 to provide in relevant part:

“The said Society shall have power to borrow money and mortgage its real estate to secure same, to an amount not exceeding Twenty Thousand Dollars, to be used in completing and paying for the buildings now in process of erection on the real estate of said Society, and the real estate and property of said Society shall be exempt from taxation.” (Emphasis added.)

Private Laws of the State of Illinois 1867, p. 261, § 2.

CHS’s charter exemption is not unique. Prior to the adoption of the constitution of 1870, the Illinois legislature had granted a large number of private institutions

corporate charters which contained tax exemption provisions. People ex rel. County Collector of Cook County v. Northwestern University, 51 Ill. 2d 131 (1972). The constitution of 1870 altered this situation dramatically by prohibiting the legislature from granting any corporation any special privilege. *Id.* However, the U.S. Supreme Court has held that the adoption of the constitution of 1870 did not eliminate those charter exemptions previously granted by the Illinois legislature. Northwestern University v. People ex. rel. Miller, 99 U.S. 309 (1879); see also People ex rel. County Collector of Cook County v. Northwestern University, 51 Ill. 2d 131 (1972) (finding no equal protection violation where institutions organized prior to the adoption of the constitution of 1870 were accorded a different tax exemption from those institutions organized after the adoption of the constitution of 1870); accord, People ex rel. Gill v. Lake Forest University, 367 Ill. 103 (1937); People v. YMCA of Chicago, 365 Ill. 118 (1936).

In sum, the legislature expressly granted CHS a charter exemption from property taxation. The courts of this state and the U.S. Supreme Court have consistently upheld similar charter exemptions. Accordingly, I recommend that the subject parcel be exempted from real estate taxes while the subject property is owned by CHS. Because CHS acquired the property on July 14, 1994, and thus owned the property for 47% of the 1994 tax year, I recommend that the subject parcel be exempted from 47% of 1994 real estate taxes.

WHEREFORE, for the reasons stated above, I recommend that the subject parcel be exempt from real estate taxes for 47% of the 1994 tax year.

Date

Robert C. Rymek
Administrative Law Judge